

Drug Enforcement Administration, Justice

§ 1316.47

business trust, partnership, association or other legal entity.

(f) The term *presiding officer* means an administrative law judge qualified and appointed as provided in the Administrative Procedure Act (5 U.S.C. 556).

(g) The term *proceeding* means all actions involving a hearing, commencing with the publication by the Administrator of the notice of proposed rule making or the issuance of an order to show cause.

(h) Any term not defined in this part shall have the definition set forth in section 102 of the Act (21 U.S.C. 802) or part 1300 of this chapter.

[36 FR 7820, Apr. 24, 1971, as amended at 38 FR 757, Jan. 4, 1973. Redesignated at 38 FR 26609, Sept. 24, 1973, as amended at 62 FR 13969, Mar. 24, 1997]

§ 1316.43 Information; special instructions.

Information regarding procedure under these rules and instructions supplementing these rules in special instances will be furnished by the Hearing Clerk upon request.

§ 1316.44 Waiver or modification of rules.

The Administrator or the presiding officer (with respect to matters pending before him) may modify or waive any rule in this subpart by notice in advance of the hearing, if he determines that no party in the hearing will be unduly prejudiced and the ends of justice will thereby be served. Such notice of modification or waiver shall be made a part of the record of the hearing.

§ 1316.45 Filings; address; hours.

Documents required or permitted to be filed in, and correspondence relating to, hearings governed by the regulations in this chapter shall be filed with the Hearing Clerk, Drug Enforcement Administration, Department of Justice, Washington, DC 20537. This office is open Monday through Friday from 8:30 a.m. to 5 p.m. eastern standard or daylight saving time, whichever is effective in the District of Columbia at the time, except on national legal holidays. Documents shall be dated and

deemed filed upon receipt by the Hearing Clerk.

[36 FR 7820, Apr. 24, 1971. Redesignated at 38 FR 26609, Sept. 24, 1973, and amended at 55 FR 27464, July 3, 1990]

§ 1316.46 Inspection of record.

(a) The record bearing on any proceeding, except for material described in subsection (b) of this section, shall be available for inspection and copying by any person entitled to participate in such proceeding, during office hours in the office of the Hearing Clerk, Drug Enforcement Administration, Department of Justice, Washington, DC 20537.

(b) The following material shall not be available for inspection as part of the record:

(1) A research protocol filed with an application for registration to conduct research with controlled substances listed in Schedule I, pursuant to § 1301.32 (a)(6) of this chapter, if the applicant requests that the protocol be kept confidential;

(2) An outline of a production or manufacturing process filed with an application for registration to manufacture a new narcotic controlled substance, pursuant to § 1301.33 of this chapter, if the applicant requests that the outline be kept confidential;

(3) Any confidential or trade secret information disclosed in conjunction with an application for registration, or in reports filed while registered, or acquired in the course of an investigation, entitled to protection under subsection 402(a) (8) of the Act (21 U.S.C. 842(a) (8)) or any other law restricting public disclosure of information; and

(4) Any material contained in any investigatory report, memorandum, or file, or case report compiled by the Administration.

[36 FR 7820, Apr. 24, 1971. Redesignated at 38 FR 26609, Sept. 24, 1973, as amended at 62 FR 13970, Mar. 24, 1997]

§ 1316.47 Request for hearing.

(a) Any person entitled to a hearing and desiring a hearing shall, within the period permitted for filing, file a request for a hearing in the following form:

_____ (Date)

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Administrator, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative.

DEAR SIR: The undersigned
(Name of person) hereby
requests a hearing in the matter of:
(Identification of the
proceeding).

(A) (State with particularity the interest
of the person in the proceeding.)

(B) (State with particularity the objections
or issues, if any, concerning which the per-
son desires to be heard.)

(C) (State briefly the position of the person
with regard to the particular objections or
issues.)

All notices to be sent pursuant to the pro-
ceeding should be addressed to:

(Name)

(Street address)

(City and State)

Respectfully yours,

(Signature of person)

(b) The Administrative Law Judge,
upon request and showing of good
cause, may grant a reasonable exten-
sion of the time allowed for response to
an Order to Show Cause.

[36 FR 7820, Apr. 24, 1971, as amended at 36
FR 13387, July 21, 1971. Redesignated at 38 FR
26609, Sept. 24, 1973]

EDITORIAL NOTE: For FEDERAL REGISTER ci-
tations affecting § 1316.47, see the List of CFR
Sections Affected, which appears in the
Finding Aids section of the printed volume
and on GPO Access.

§ 1316.48 Notice of appearance.

Any person entitled to a hearing and
desiring to appear in any hearing,
shall, if he has not filed a request for
hearing, file within the time specified
in the notice of proposed rule making,
a written notice of appearance in the
following form:

(Date)

Administrator, Drug Enforcement Adminis-
tration, United States Department of Jus-
tice, Washington, DC 20537, Attention: DEA
Federal Register Representative.

DEAR SIR: Please take notice that
(Name of person) will ap-

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pear in the matter of:

(Identification of the proceeding).

(A) (State with particularity the interest
of the person in the proceeding.)

(B) (State with particularity the objections
or issues, if any, concerning which the per-
son desires to be heard.)

(C) (State briefly the position of the person
with regard to the particular objections or
issues.)

All notices to be sent pursuant to this ap-
pearance should be addressed to:

(Name)

(Street address)

(City and State)

Respectfully yours,

(Signature of person)

[36 FR 7820, Apr. 24, 1971, as amended at 36
FR 13387, July 21, 1971. Redesignated at 38 FR
26609, Sept. 24, 1973, and amended at 40 FR
57210, Dec. 8, 1975]

§ 1316.49 Waiver of hearing.

Any person entitled to a hearing
may, within the period permitted for
filing a request for hearing or notice of
appearance, waive of an opportunity
for a hearing, together with a written
statement regarding his position on
the matters of fact and law involved in
such hearing. Such statement, if ad-
missible, shall be made a part of the
record and shall be considered in light
of the lack of opportunity for cross-ex-
amination in determining the weight
to be attached to matters of fact as-
serted therein.

§ 1316.50 Appearance; representation; authorization.

Any person entitled to appear in a
hearing may appear in person or by a
representative in any proceeding or
hearing and may be heard with respect
to matters relevant to the issues under
consideration. A representative must
either be an employee of the person or
an attorney at law who is a member of
the bar, in good standing, of any State,
territory, or the District of Columbia,
and admitted to practice before the
highest court of that jurisdiction. Any